

STATE OF VERMONT
HUMAN SERVICES BOARD

In re) Fair Hearing No. 11,316
)
Appeal of)

INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare denying her application for general assistance (G.A.) for moving. The issue is whether the petitioner had an emergency need for G.A. within the meaning of the pertinent regulations.

FINDINGS OF FACT

The petitioner first applied for G.A. on March 13, 1992. At the time, she and her son lived in an apartment unit in a farmhouse. The petitioner's landlord, who lived in the main part of the farmhouse, had given the petitioner a written eviction notice effective May 1, 1992. Because the petitioner at that time had income (she and her son both receive Social Security benefits) of \$790.00 a month--\$323.00 in excess of the G.A. maximum--and because the petitioner had at least six more weeks in which to find alternative housing, the Department determined that the petitioner was not faced with a "catastrophic situation" necessary under the regulations to qualify for G.A. to pay rent for a new apartment or for moving expenses (see infra).

On March 27, 1992, the petitioner made another

application for G.A. alleging essentially the same circumstances. Again, the Department denied the application. On April 1, 1992, the petitioner moved to another residence. Her husband, from whom she had been living separate until that time, helped her move and moved in with her into the new place. The petitioner's husband receives an additional Social Security payment of \$405.00 a month.

The petitioner's former landlord testified that she told the petitioner to move after some late-night disturbances. The petitioner alleged to the Department that the apartment was not habitable, but the only complaint she had ever made to the landlord was one time when she had no heat, which the landlord promptly investigated and fixed (the petitioner's thermostat had broken). The petitioner left the apartment fully paid up in rent.

ORDER

The Department's decision is affirmed.

REASONS

The regulations provide that in order to be eligible for G.A. when monthly income is in excess of the G.A. maximum (see supra) an applicant must establish that she is without resources and is faced with a "catastrophic situation". W.A.M. § 2600C. This is defined in W.A.M. § 2602 as follows:

Any applicant who has exhausted all available income and resources and who has an emergency need caused by one of the following catastrophic situations may have

that need which is indeed caused by the catastrophe met within General Assistance standards disregarding other eligibility criteria. Subsequent applications must be evaluated in relation to the individual applicant's potential for having resolved the need within the time which has elapsed since the catastrophe to determine whether the need is now caused by the catastrophe or is a result of failure on the part of the applicant to explore potential resolution of the problem:

. . .

- b. A court ordered or constructive eviction due to circumstances over which the applicant had no control. An eviction resulting from intentional, serious property damage caused by the applicant; repeated instances of raucous and illegal behavior which seriously infringed on the rights of other tenants of the landlord or the landlord himself; or intentional and serious violation of a tenant agreement is not considered a catastrophic situation. Violation of a tenant agreement shall not include nonpayment of rent unless the tenant had sufficient financial ability to pay and the tenant did not use the income to cover other basic necessities or did not withhold the rent pursuant to efforts to correct substandard housing.

In this case, the petitioner was never faced with a court-ordered or constructive eviction. Her income was (and is) well in excess of the G.A. maximum. It appears she was able to move into another apartment on her own one month before her notice to vacate was effective.

At the hearing the petitioner argued that the G.A. income limitations should not apply to individuals who are disabled. However, no such exception appears in the regulations and it does not appear that the petitioner demonstrated any other basis for G.A. eligibility. The Department's decision is, therefore, affirmed. 3 V.S.A. § 3091(d) and Fair Hearing Rule No. 19.

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